

ORAL ARGUMENT SCHEDULED NOVEMBER 24, 2025

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ASSOCIATED PRESS,

Plaintiff-Appellee,

v.

TAYLOR BUDOWICH, et al.,

Defendants-Appellants.

No. 25-5109

UNOPPOSED MOTION TO RESCHEDULE ORAL ARGUMENT

Pursuant to Federal Rule of Appellate Procedure 34(b) and D.C. Circuit Rule 34(g), the government respectfully requests that the Court reschedule oral argument to avoid a conflict with government counsel's pre-existing international travel plans. Plaintiff does not oppose the motion, and the parties are available on any of the following alternative dates: (1) November 10 or 14; (2) November 17, 18, or 19; (3) December 3, 4, or 5; or (4) December 8, 9, 10, or 11. In further support of this request, the government states as follows:

1. This case arises from a preliminary injunction restricting the President's discretion over who may enter highly secure presidential

spaces like the Oval Office and Air Force One. The government noticed this appeal on April 9, 2025, and it moved for a stay pending appeal on April 10, 2025. After hearing argument on April 17, 2025, a panel of this Court substantially granted the government's stay motion on June 6, 2025. The en banc court declined to rehear that decision on July 22, 2025.

2. Plaintiff did not seek expedition of the appeal, and on July 22, 2025, the Court entered a standard briefing schedule. Consistent with that schedule, the government filed its opening brief on August 29, 2025, plaintiff's response brief is due September 29, 2025, and the government's reply brief is due October 20, 2025. On September 19, 2025, the Court scheduled this case for oral argument on November 24, 2025—thirty-five days after briefing is scheduled to be complete.

3. Eric D. McArthur, the Deputy Assistant Attorney General for the Appellate Staff of the Civil Division, is the government's principal appellate litigator in civil matters in the courts of appeals.¹ Because this case presents issues of critical importance to the

¹ Brett A. Shumate, the Assistant Attorney General for the Civil Division, is recused from this matter.

presidency, Mr. McArthur presented oral argument in conjunction with the government's stay motion in April, and the White House and the Department of Justice have determined that he should also present argument on the merits if possible. Mr. McArthur, however, has longstanding plans to be out of the country on vacation with his extended family during the week of November 23, 2025. The government had not previously alerted the Court to this potential conflict because it did not anticipate that the Court would enter an order scheduling argument prior to the filing of plaintiff's response brief, for a date less than 45 days from the close of briefing. *See* D.C. Circuit Handbook of Practice & Internal Procedures 37, 48, 49.

4. We therefore respectfully request that the Court reschedule oral argument to any of the following dates: (1) November 10 or 14; (2) November 17, 18, or 19; (3) December 3, 4, or 5; or (4) December 8, 9, 10, or 11. Counsel for plaintiff has authorized us to represent that this motion is unopposed and that counsel for plaintiff is available on these alternative dates.

Respectfully submitted,

YAAKOV M. ROTH

*Principal Deputy Assistant
Attorney General*

ERIC D. MCARTHUR

*Deputy Assistant Attorney
General*

MARK R. FREEMAN

DANIEL TENNY

/s/ Steven A. Myers

STEVEN A. MYERS

*Attorneys, Appellate Staff
Civil Division, Room 7232
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 305-8648
Steven.A.Myers@usdoj.gov*

Submitted: September 24, 2025.

CERTIFICATE OF COMPLIANCE

This motion complies with the length requirement of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 501 words. This motion also complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5)-(6) because it was prepared using Microsoft Word in Century Schoolbook 14-point font, a proportionally spaced typeface.

/s/ Steven A. Myers
Steven A. Myers

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2025, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Steven A. Myers
Steven A. Myers